

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 3/5/2013	(3) CONTACT/PHONE Bill Robeson, Supervising Planner / 781-5607	
(4) SUBJECT Hearing to consider an appeal by Roy Ogden, Attorney representing Darren Shetler, of the issuance of a Grading Permit (PMT2012-00534) at 300 Green Gate Road, south of the city of San Luis Obispo, to allow grading for a horse arena in an existing pasture. District 3.			
(5) RECOMMENDED ACTION Adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Director.			
(6) FUNDING SOURCE(S) Appeal fee and General Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$5,285	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>45 mins</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 3 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Bill Robeson, Supervising Planner

VIA: Ellen Carroll, Environmental Coordinator, Current Planning

DATE: 3/5/2013

SUBJECT: Hearing to consider an appeal by Roy Ogden, Attorney representing Darren Shetler, of the issuance of a Grading Permit (PMT2012-00534) at 300 Green Gate Road, south of the city of San Luis Obispo, to allow grading for a horse arena in an existing pasture. District 3.

RECOMMENDATION

Adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Director.

DISCUSSION

Background

The site is within the Agriculture land use category and is located at 300 Green Gate Road, approximately 600 feet south of the Price Canyon Road/Highway 227 intersection. The overall site is approximately 168 acres, known as Green Gate Farms. It has been used for several decades as a commercial equestrian facility, along with other agricultural uses.

On October 3, 2012 the County Planning and Building Department issued a grading permit (PMT2012-00534) for a horse arena. The grading permit authorized 1,990 cubic yards of cut and 1,475 cubic yards of fill material which resulted in 1.9 acres of site disturbance. The grading was conducted, inspected and the permit was given a final inspection on November 5, 2012.

On October 9, 2012 an appeal was received. The applicant's representative was contacted and given the option of proceeding with the grading project, or waiting until after a decision on the appeal was made. An appeal of a grading permit is not a suspension of the permit and an applicant may choose to continue work at their own risk. In this case, the applicant chose to continue to complete the grading with the knowledge that site restoration may be required if the appeal is upheld.

Appeal

Roy Ogden appealed the issuance of the grading permit pursuant to Section 22.52.190.B. of the Land Use Ordinance (LUO) based on the following three issues:

- 1) the project has not been adequately described;
- 2) the project has not had adequate environmental review; and
- 3) the project requires a different type of permit under County regulations.

Appeal Issue 1 – The project has not been adequately described.

Staff Response: *The Grading Permit application notes the scope of the work for the requested permit as "grading to level ground for horse arena". In addition, the grading plans are titled "Grading and Erosion Control Plan, Green Gate Farms Arena". The site has historically been used as an equestrian facility. The grading permit was issued for grading for a horse arena consistent with the scope of the work described in the application and grading plans.*

Appeal Issue 2 – The project has not had adequate environmental review.

Staff's response: *The grading permit was deemed exempt (Class 4) from the California Environmental Quality Act (CEQA). Article 19 of the Guidelines for Implementation of the California Environmental Quality Act includes a list of classes of projects which have been determined not to have a significant effect on the environment and which "shall, therefore, be exempt from the provisions of CEQA". Section 15304, Minor Alterations to Land, defines a Class 4 exemption as the following:*

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to:

- (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.*

Section 15300.2. Exceptions, notes that a Class 4 exemption does not apply where the project may impact a designated or mapped environmental resource of critical concern, pursuant to federal, state, or local agency regulations.

The subject grading included 1,990 cubic yards of cut and 1,475 cubic yards of fill for a total of 3,465 cubic yards of material. The area of site disturbance was 1.9 acres and had a pre-graded average slope of 5%. No trees exist in the specific site area and none were removed.

The specific subject site has historically been used as an open horse pasture and pasture land which has been actively tilled in the past. The graded arena site is not located in a waterway, wetland, scenic area, geologic hazard, or seismic hazard zone, this was confirmed by evaluating and applying the County's environmental resource maps to determine if there were potential areas of concern or potential impacts. Following that review and taking into account the historic and current setting of the site, it was concluded that this grading permit qualified for a Class 4 exemption under the provisions of CEQA.

Appeal Issue 3 – The project requires a different type of permit under County regulations.

Staff's response: *Grading for a horse arena in association with an existing equestrian facility requires a grading permit. This horse arena was located in an existing fenced pasture versus expansion of the facility into undisturbed/undeveloped area. Additionally, according to the applicant, an existing horse arena near the main barn will no longer be used as an arena.*

Land Use Ordinance (LUO) Section 22.52.070, states that a grading permit may require a land use permit per Table 2-3 based upon the amount of site disturbance, if the project is subject to LUO Section 22.08. Permit Requirements Based on Project Characteristics. This section sets up the permit requirements for new development and new land uses. Because the site was an established equestrian facility prior to the adoption of the LUO (and the permit requirements established therein) and is considered a legal conforming use, the grading for an arena does not constitute a new land use and is therefore not subject LUO Section 22.08 and the proposed grading required a grading permit only. The grading permit was reviewed and approved by the County Building Division and the County Public Works Department. A grading permit was the appropriate permit level and no other permits were required.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel reviewed the resolution as to form and legal effect. Public Works reviewed the grading permit for drainage and storm water pollution.

FINANCIAL CONSIDERATIONS

The appellant has paid the appeal fee of \$850 to partially offset staff time required to prepare this staff report. The balance of funding comes from the general fund (total cost is approximately \$4,435).

RESULTS

Denial of the appeal would mean the grading permit PMT2012- 00534 which was finalized November 5, 2012 is still valid and no further action is required by the applicant or County.

ATTACHMENTS

1. Appeal Form
2. Board Resolution Affirming the Planning Director's Decision
3. Vicinity Maps and Grading Plan